

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

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TIARRA FAIN, :
Plaintiff, :
vs. : CASE NO. 3:12-CV-293
RAPPAHANNOCK REGIONAL JAIL, :
et al., :
Defendants. :

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Deposition of CHIZOBA UZOCHUKWU, M.D.

Fredericksburg, Virginia

Tuesday, January 29, 2013

12:57 p.m.

Job No.: 31300

Pages: 1 - 50

Reported by: Sarah M. Bickel, RPR

PLAINTIFF'S
EXHIBIT
F

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1 Q And as far as you could tell, neither one
2 of her legs were restrained to anything?

3 A Neither one of her legs were restrained to
4 anything.

5 Q How about her arms?

6 A I want to understand. At the time of
7 delivery?

8 Q Yes.

9 A Her arms were not restrained that I could
10 see.

11 Q Did you at any point order any of the
12 officers that were there to take off restraints from
13 her?

14 A The afternoon that I took over her care, I
15 made emphasis to the nurse and the guard that was
16 there -- I have a visual of the guard, but I made it
17 clear to make sure that the patient is not restrained
18 during the course of labor and delivery. It is not
19 the first time I made such order because I've had
20 other experiences with three others prior to
21 Ms. Fain. I knew that that's commonly obliged. I
22 should not -- I was surprised to hear about this

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1 outcome.

2 So I do give orders to make sure the
3 patient is not restrained, so I don't expect her to
4 be restrained while she's in labor and delivery, so
5 when I came into the room, I did not see that she was
6 restrained.

7 Q How about at any point while you saw her
8 that day, was she restrained?

9 A No.

10 Q And your experience in the other three
11 deliveries was that those inmates were not restrained
12 as well?

13 A They were not restrained as well.

14 Q Have you ever had a situation where you've
15 given an instruction to a guard that wasn't complied
16 with?

17 A No.

18 Q And if that were the case, for instance,
19 if there was a restraint on her during her delivery,
20 would you have noted that in your report?

21 A Yes, I would have.

22 Q And why would you do that?

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1 question or not.

2 A It's just in summary, just asking the same
3 questions you asked.

4 Q Did you tell him that she was not
5 restrained during the delivery?

6 A Same information I gave to you is the same
7 information --

8 Q Nothing different?

9 A Nothing different.

10 Q How long did the delivery process take?

11 A Delivery process, I would say less than --
12 less than five minutes because I intervened pretty
13 rapidly, and she was pretty much ready to be
14 delivered. Baby's heart rate was deceling, and I had
15 to make a decision for immediate delivery and get her
16 in position. And I performed that, and we had baby
17 literally in less than five minutes from the time.

18 Q Okay. Based on that document -- I'm
19 sorry, if you can just tell me what number that is
20 on --

21 A This is Exhibit 4.

22 Q Looking at that document, did Ms. Fain

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1 Q Not in this one?

2 A Not in this one.

3 MR. FRANCUZENKO: I have no further
4 questions.

5 EXAMINATION BY COUNSEL FOR THE PLAINTIFF

6 BY MR. SHIELDS:

7 Q Doctor, you would agree that the use of
8 restraints in any form in labor and delivery is an
9 unacceptable practice from a medical standpoint,
10 wouldn't you?

11 A I certainly agree.

12 Q Now, when you went -- in this delivery
13 process, when is the first time you would have seen
14 her or encountered her?

15 A In the morning. The first day -- usually,
16 when we take shifts for our call coverage, it starts
17 off at 8 a.m. and then 24 hours. So my goal is to go
18 in, see the patients on the floor and introduce
19 myself. And once I know that Ms. Fain is there and I
20 realize she's from the Rappahannock Jail, I know she
21 is going to be someone who is going to be restrained.
22 So I go in there, I introduce myself, I see who the

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1 guard is, and I give instructions to say, Through the
2 course of labor and delivery, I do not want patient
3 to be restrained.

4 Q Do you remember whether or not she was
5 restrained at that time?

6 A No.

7 Q You don't remember?

8 A I don't remember.

9 Q Now, is she covered at that time?

10 A She was covered with blankets, yeah.

11 Q And you do instruct the guard at that time
12 to make sure they take the restraints off; is that
13 right?

14 A Correct.

15 Q Do you remember what kind of restraints
16 are used at that time?

17 A They're usually a brown belt that you use
18 to strap, like a belt buckle, something like that.

19 Q And do you know how many of them there
20 are?

21 A There should be two.

22 Q And where are they attached, do you know?

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1 A By their wrists.

2 Q How about their legs, anything on their
3 legs, or do you know?

4 A I don't know.

5 Q Now, when is the next time you would have
6 seen Ms. Fain?

7 A I would have seen Ms. Fain sort of in
8 between her labor course, so usually six hours later
9 ideally or at the time when she's ready to deliver.

10 Q In this case, do you know which it was?

11 A In this case, I saw her probably --
12 because she delivered -- she delivered like in the
13 evening, so I would have seen her probably right
14 after change of shift, so probably eight hours later.

15 Q Now, during this period when you saw her
16 in the morning, was she in labor?

17 A She was not in labor.

18 Q When did she go in labor, if you know?

19 A I'm going to look at the time that I
20 dictated --

21 Q Okay.

22 A -- her notes, and I would have a better --

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1 A I do remember that she was not in labor by
2 the time I got to her. I arrived to her when she was
3 requiring induction.

4 Q All right. Now, explain that to me, if
5 you would.

6 A Someone who's scheduled for an induction
7 is a patient who will require stimulus to make her
8 cervix change. So she came in with a two centimeters
9 dilated cervix, 50 percent effaced, and baby
10 stationed at -3. Certainly, it's not a favorable
11 cervix, and certainly, she was not coming in with
12 regular contractions. So we use Pitocin as an
13 inducement agent to stimulate contractions, get them
14 organized, and achieve a vaginal delivery within
15 24 hours from the moment we start.

16 Q And you said in this case the delivery
17 took place in less than five minutes; is that right?

18 A The delivery of baby -- from the moment
19 she gets to 10 centimeters to delivery of the baby
20 was within less than five minutes.

21 Q How big was the baby?

22 A Baby was nine pounds, nine ounces.

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1 Q So it was a big baby; is that right?

2 A It was a big baby.

3 Q And the baby had an umbilical cord wrapped
4 around his neck, didn't he?

5 A A nuchal cord.

6 Q And would you explain that for us, please.

7 A At the time the way we know that the baby
8 has some sort of nuchal cord or umbilical chord event
9 is through the decelerations of the baby's heart
10 rate. So the baby's heart rate started off at a
11 baseline of 130 and descended rapidly down to the 70s
12 and 80s. I was made aware that the baby's heart rate
13 was going down, I certainly was on the floor, and I
14 came immediately to her room to assess what's
15 happening, an event is taking place, when I know
16 that.

17 So I recheck her, see that she's fully
18 dilated. The goal is to deliver. Once we deliver, I
19 noticed that there was an umbilical cord around the
20 neck, and that's usually not unusual, just usually
21 she goes from rapid descent -- rapid compression with
22 contractions, and it's just delivery to reduce the

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1 risk of hypox (phonetic) for baby.

2 Q And that whole process you just described
3 took five minutes; is that right?

4 A Yes.

5 Q And you were called because of the
6 declining rate; is that right?

7 A Correct.

8 Q Now, how would you define labor?

9 A Labor is regular contractions with
10 cervical change.

11 Q And what's the normal cervical --

12 A Cervical change would be what we'd say
13 active labor, and that means that we have someone
14 who's coming in at perhaps three or four centimeters
15 with an 80 percent effacement and regular
16 contractions every, say, two to four minutes
17 consistent without requiring any inducing agent.
18 That person is in labor.

19 Q Did she ever go into labor by that
20 definition?

21 A No.

22 Q So this woman was never in labor at all,

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1 A Correct.

2 Q Now, during that entire -- what would you
3 call that period of time, that eight hours?

4 A That is called -- that eight hours is what
5 we call a latent phase of stage 1 labor.

6 Q Latent phase of stage 1 labor?

7 A Uh-huh.

8 Q And is the lady in pain at times during
9 that procedure?

10 A No.

11 Q Does she have any contractions during that
12 procedure?

13 A No.

14 Q What's happening to her while she's laying
15 there in the bed?

16 A Her contractions is building up, and we
17 use the Pitocin to titrate to strengthen the
18 contraction pattern.

19 Q And do you know whether the women
20 themselves call that labor?

21 A No, they don't call that labor. Usually,
22 labor certainly comes at regular contractions, really

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1 intense, uncomfortable, and they usually don't sit
2 still. It's pretty intense.

3 Q Do you know during that eight-hour period
4 whether or not she was restrained?

5 A No. I would not know because I don't
6 expect her to be restrained.

7 Q But you don't know?

8 A I don't know.

9 Q Because you weren't there?

10 A I was not there.

11 Q Now, it is your practice to ask to have
12 those restraints removed, correct?

13 A Correct.

14 Q But there is always a guard present, isn't
15 there?

16 A There is always a guard present.

17 Q And after delivery, they're restrained
18 again; is that correct?

19 A After delivery, they are not restrained
20 until they go through their two-hour recovery period
21 and they go to the postpartum unit.

22 Q So in the postpartum, they are restrained?

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1 A They are restrained in the postpartum
2 unit.

3 Q And that would be true of Ms. Fain also?

4 A That would happen to Ms. Fain also.

5 Q Now, do you actually remember Ms. Fain's
6 case specifically, or are you just going by what your
7 usual practice is?

8 A With Ms. Fain's -- rephrase that question.
9 Repeat your question again.

10 Q Do you recall Ms. Fain specifically not
11 being restrained, or are you just testifying that the
12 usual procedure is for them not to be restrained,
13 therefore, you assume she wasn't?

14 A I'm testifying that Ms. Fain would have
15 been restrained postpartum because I know based on my
16 other experiences with the other deliveries, but I
17 did not see her during her postpartum course being
18 restrained.

19 Q During the labor itself, do you remember
20 for sure -- the delivery itself, do you remember for
21 sure that she was not, or is it simply that that's
22 the usual procedure?

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1 A During the delivery, I do remember that
2 she was not restrained.

3 Q Now, after the five minutes when the baby
4 was delivered, how much longer were you with her?

5 A I was with her for, I would say,
6 10 minutes, pretty much making sure that the bleeding
7 was under control, that she was repositioned back in
8 bed, the bed is put together, we count all our
9 instruments, and that's it.

10 Q So all told, during the labor and delivery
11 process, you were with her about 15 minutes?

12 A Yes.

13 Q And other than that, you don't know what
14 happened with respect to restraints, do you?

15 A No.

16 MR. SHIELDS: No further questions.

17 MR. FRANCUZENKO: I've got a few follow-up
18 for you, Doctor.

19 FURTHER EXAMINATION BY COUNSEL FOR THE DEFENDANTS

20 BY MR. FRANCUZENKO:

21 Q The nurses that you work with -- this was
22 at Mary Washington Hospital?